

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF OKLAHOMA

JAMES D. BUCHANAN,                     )  
                    Plaintiff,                     )  
   )  
vs.   ) No. 18-CV-171-RAW  
   )  
TURN KEY HEALTH CLINICS,             )  
LLC, et al,                             )  
                    Defendant.                     )

VIDEO DEPOSITION OF  
ROSEMARY KOTAS

DATE: FEBRUARY 23, 2019

REPORTER: MARISA SPALDING, CSR, RPR

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1 blank, then what happens next?

2 A That's day shift.

3 Q Okay. What would day shift do?

4 A I don't know.

5 Q Okay. Would day shift be responsible  
6 for actually scheduling the visit with the  
7 doctor or the nurse administrator?

8 MR. YOUNG: Object to form.

9 Q (By Mr. Smolen) Or nurse practitioner?

10 A I don't -- I don't know.

11 MR. MILLER: Same objection.

12 THE WITNESS: I don't know. They --  
13 it was day shift. I just made the list. After  
14 that, it was day shift. It was day shift. I  
15 don't -- I don't know what they did.

16 Q (By Mr. Smolen) Well, who was -- who  
17 was supposed to do -- like if this was -- let's  
18 say on 11 -- is this your handwriting,  
19 11/11/16, James Buchanan?

20 A It might be.

21 Q Okay. Does it -- does it seem to be  
22 consistent with your handwriting?

23 A It does.

24 Q Okay. And so you're working -- let's  
25 look back at your time record, okay? What time

1 A Where are you at?

2 Q A ten is a term he's providing; is that  
3 correct?

4 A A ten is the term he was providing.

5 Q Can you go to Exhibit 9 -- Plaintiff's  
6 Exhibit 9. Do you see there on the 11th there  
7 is the line that you -- you wrote in it. Do you  
8 see that?

9 A Yes.

10 Q Okay. The one above it, I just wanted  
11 to clarify. Is that also you? Did you write  
12 that as well --

13 A No, sir.

14 Q -- the line above it? Is that someone  
15 else?

16 A Yes, sir.

17 Q You believe that's a different person's  
18 handwriting?

19 A Yes, sir.

20 Q And thus unrelated to this completely;  
21 is that fair, to Mr. Buchanan?

22 A I don't know because I don't see the  
23 patient's name. It's been blocked out.

24 Q Fair enough. It was not written at the  
25 same time because it's not your handwriting?

1 A No, it was not written at the same time.

2 Q Do you recall on the 14th when  
3 Mr. Buchanan went to the hospital, who was the  
4 jailer who spoke to you about Mr. Buchanan?

5 A I -- I can't recall.

6 Q Okay. Do you know whether it was a  
7 female or a male?

8 A No, I can't recall.

9 Q Okay.

10 A I'm sorry.

11 Q Mr. Buchanan in his deposition described  
12 a large woman guard with short black hair. Does  
13 that help you or jog your memory? Does that  
14 tell you anything about who this particular  
15 guard was?

16 A No, sir.

17 Q Okay. Do you recall any guard or  
18 detention officer saying anything to you in  
19 particular about Mr. Buchanan other than what  
20 we've discussed here today?

21 A No, sir.

22 Q You agree that some member of the  
23 detention staff spoke to you on the 14th to get  
24 you to see him on the 14th, correct?

25 A Yes, sir.

1           Q    Do you recall any other guards at any  
2   point saying anything to you about Mr. Buchanan  
3   and about his condition?

4           A    No, sir.

5           Q    The county policies that were provided  
6   to you earlier, the detention center's policies  
7   --

8           A    Yes, sir.

9           Q    -- is this the first time you've seen  
10  them as far as you know?

11          A    As far as I know, yes.

12          Q    So do you have any opinion one way or  
13  the other about whether county policies were  
14  violated or not violated?

15          A    No, sir.

16          Q    On the 11th, you saw Mr. Buchanan,  
17  correct, and you wrote that note?

18          A    Yes, sir.

19          Q    I want to be clear on this because,  
20  frankly, I think I heard a few answers. Do you  
21  know whether you wrote any other document  
22  regarding your seeing him on the 11th or do you  
23  not know?

24                   MR. SMOLEN: Objection to the form.  
25  Asked and answered numerous times.

1 THE WITNESS: I don't recall.

2 Q (By Mr. Miller) Okay. If you thought  
3 it was an emergency on the 11th, would you have  
4 done something?

5 A Yes, sir.

6 MR. SMOLEN: Objection, speculation.

7 MR. MILLER: Object to the form.

8 The vast majority of the questions asked earlier  
9 were speculation, so I -- I think I can ask this  
10 question.

11 MR. SMOLEN: Well, that's not up to  
12 you to decide. I'm going to make the objection.

13 MR. MILLER: Okay.

14 Q (By Mr. Miller) You did believe that it  
15 was an emergency on the 14th, right?

16 A Yes, sir.

17 Q Is that why you contacted Dr. Cooper?

18 A Yes, sir.

19 Q And he agreed with you that it was an  
20 emergency?

21 A Yes, sir.

22 Q And the ER was contacted, correct?

23 A Yes, sir.

24 Q If you had believed it was an emergency  
25 on the 11th, would you have done something

1 similar?

2 A Yes, sir.

3 MR. SMOLEN: Objection.

4 Q (By Mr. Miller) Now you've discussed  
5 your training a bit, how long you've been a  
6 nurse. Is part of your nursing training  
7 learning what's an emergency and what's not?

8 A Yes, sir.

9 Q Do you have more medical training than  
10 anyone else on the night shift at the Muskogee  
11 County Jail, any of the other detention officers  
12 --

13 MR. SMOLEN: Objection, speculation.

14 Q (By Mr. Miller) -- as far as you know?

15 A As far as I know, I was the only  
16 licensed medical personnel on night shift.

17 Q Are you aware of anyone else that had  
18 remotely the same level of training or  
19 experience as you?

20 A I have no -- no clue if anybody had any.

21 Q Sure. They're relying on your judgment  
22 for medical purposes, correct?

23 A Yes, sir.

24 Q That's why you're there, right?

25 A Yes, sir.

1           Q    You're the best trained person on that  
2   night shift?

3                   MR. SMOLEN:  Objection to the form.

4           Q    (By Mr. Miller)  Correct?

5           A    Yes, sir.

6                   MR. SMOLEN:  Same objection.

7           Q    (By Mr. Miller)  Ms. Goatley -- Lela  
8   Goatley, was she ever there on night shift?

9           A    No.

10          Q    Did you ever --

11                   MR. SMOLEN:  Objection, outside the  
12   scope.

13          Q    (By Mr. Miller)  Did you ever personally  
14   meet her?

15                   MR. SMOLEN:  Outside the scope.

16                   THE WITNESS:  I did not.

17                   MR. YOUNG:  You entered the time  
18   card as an exhibit.

19                   MR. SMOLEN:  Uh-huh.

20                   MR. YOUNG:  It's in there.

21          Q    (By Mr. Miller)  Okay.  Do you recall at  
22   any point any other medical personnel being on a  
23   night shift with you at any time?

24                   THE WITNESS:  Just for training.

25          Q    (By Mr. Miller)  Okay.  Do you know who



1 those people were?

2 A Amity. She was a nurse.

3 Q Okay.

4 A And there was a -- I can't remember her  
5 name, but she was a -- she was a medical  
6 assistant and she -- she trained me on the med  
7 cart.

8 Q Okay. Can you turn to Plaintiff's  
9 Exhibit 1, Page 7? It says DDR 1, 007. It's a  
10 Medication Administration Record.

11 A Okay.

12 Q These are some initials of when  
13 Naproxen, as I understand it, was administered  
14 to Mr. Buchanan. You can see there at the  
15 bottom it's a little cut off, but do you see the  
16 name James Buchanan?

17 A Yes.

18 Q It's a little hard to read. I think I  
19 know. I just want you to tell me on the record.  
20 Which of these are your initials?

21 A The one for the p.m. shift of the 4th of  
22 November; the evening shift, 5th of November;  
23 evening shift, 6th of November; evening shift --  
24 uh -- evening shift, 10th and 11th.

25 Q Is that it?

1           A     And I may have -- on the 10th morning,  
2     that looks like my initial. I may have started  
3     the morning med pass because the nurse called in  
4     and she was going to be a few minutes late.

5           Q     Okay.

6           A     She was behind traffic or something.

7           Q     So --

8           A     That would -- we would -- I would  
9     initially just initiate the first med pass so it  
10    wouldn't be late because they had a lot of  
11    things to do on day shift.

12          Q     So you would agree that on at least five  
13    occasions, maybe six, you administered  
14    medication, meaning Naproxen?

15          A     Yes, sir.

16          Q     And on each of those occasions, did you  
17    use the procedure and protocol that you  
18    described earlier in terms of their opening  
19    their mouths and making sure the medication went  
20    down?

21          A     Yes.

22          Q     And on none of those occasions, did you  
23    believe it was an emergency; is that correct?

24                   MR. SMOLEN: Objection to the form.  
25    She doesn't have any memory of any of this.

1 Q (By Mr. Miller) Well, you administered

2 --

3 MR. SMOLEN: She already testified  
4 to that.

5 Q (By Mr. Miller) You administered the  
6 medication five times. If you believed it was  
7 an emergency --

8 A That's what it says, uh-huh.

9 MR. SMOLEN: Yeah, but she doesn't  
10 have any memory of it. Objection.

11 MR. MILLER: Object to the form,  
12 please.

13 Q (By Mr. Miller) If you --

14 MR. SMOLEN: Form objection.

15 Q (By Mr. Miller) If you believed it was  
16 an emergency, would you have done what did you  
17 on the 14th in contacting Dr. Cooper?

18 MR. SMOLEN: Objection, form,  
19 speculation.

20 THE WITNESS: Yes.

21 Q (By Mr. Miller) Okay. And you didn't  
22 do that on any of the five prior times you saw  
23 him?

24 MR. SMOLEN: Objection, assumes  
25 facts not in evidence.

1 THE WITNESS: Called Dr. Cooper?

2 Q (By Mr. Miller) Correct.

3 A No.

4 Q Okay.

5 A Not to the best of my recollection.

6 Q Sure. If you had called Dr. Cooper,  
7 would you have made a note of it?

8 A Yes.

9 Q Okay. The urination. You recall seeing  
10 urine on the floor on the evening of the 14th?

11 MR. SMOLEN: Objection, asked and  
12 answered.

13 THE WITNESS: I wrote it down. If I  
14 wrote it down, then I had seen it that day.  
15 But, now, if you asked me what he was in, I  
16 couldn't tell you.

17 Q (By Mr. Miller) Do you have any  
18 specific memory of him urinating on the ground  
19 at any time prior to the 14th?

20 A No, sir.

21 Q Do you know whether he urinated because  
22 he had lost control of his ability to regulate  
23 his urine or whether he did it voluntarily?

24 A There's no way to tell that --

25 Q Okay.

1           A    -- because it was after the fact.

2           Q    Okay.  You'd agree it's possible for  
3  people to urinate on the floor voluntarily,  
4  correct?

5           A    Well, yeah, if they don't want to use  
6  the bathroom, they can pee anywhere.

7           Q    Sure.  There was a term -- something  
8  along the lines of increased discomfort in  
9  movement that is written down on one of the  
10 notes that we've described here.  Does that  
11 sound like a term you would use rather than an  
12 term an -- an inmate would use, in your opinion?

13                   MR. SMOLEN:  Objection to the form,  
14 speculation.

15          Q    (By Mr. Miller)  Does that sound like a  
16 term that a nurse would use or does that sound  
17 like the phrasing that an inmate would use?

18                   MR. SMOLEN:  Objection, speculation.

19                   THE WITNESS:  That's medical  
20 terminology.

21          Q    (By Mr. Miller)  Did you know as of the  
22 evening of the 14th of November that  
23 Mr. Buchanan had an epidural cervical abscess?

24          A    No, sir.

25          Q    Okay.  Is that something that's common

1 to see --

2 MR. SMOLEN: Objection to the form.

3 Q (By Mr. Miller) -- in your experience  
4 at a jail?

5 MR. SMOLEN: Objection to the form,  
6 speculation. She can't diagnose.

7 THE WITNESS: I -- I wouldn't know  
8 any of that.

9 Q (By Mr. Miller) Okay. Is that beyond  
10 your --

11 A Scope of practice.

12 Q -- scope of practice?

13 A Yes.

14 Q Okay. Do you recall that being  
15 something that came up a lot?

16 MR. SMOLEN: Objection to the form.

17 Q (By Mr. Miller) Do you recall that  
18 being a common term you heard bandied about  
19 while you were at Muskogee County Jail?

20 A No, sir.

21 MR. SMOLEN: Objection, relevance.

22 Q (By Mr. Miller) Do you do all the  
23 intakes at the Muskogee County Jail?

24 A No.

25 Q How do you decide whether you do an

1 Muskogee County Jail?

2 A No, sir.

3 Q Have you ever spoken with Dr. Baird  
4 regarding Mr. Buchanan?

5 A Not to my recollection, no, sir.

6 Q Okay. There was some talk about the  
7 term gone downhill. Would you agree that as of  
8 the time that he left on the evening of the  
9 14th, he had, in fact, gone downhill?

10 A There was a decline, yes.

11 Q He was worse than he was before?

12 A Yes, sir.

13 Q And that's why he was in an emergency  
14 situation, right?

15 A Yes, sir.

16 Q Crystal clear on this. When you use the  
17 term pain and then drew lines to the left and to  
18 the right, did that mean to you pain throughout  
19 his body?

20 A No, those lines are to prevent anybody  
21 else from adding anything to my charting.

22 Q Okay.

23 A That's a CYA.

24 Q Did any -- to the best of your memory,  
25 did any jail staff to you -- ever say to you

1     this man needs to go to the hospital  
2     immediately?

3           A     No, sir.

4           Q     Until the evening of the 14th, did you  
5     ever say that to any jail staff member?

6           A     No, sir.

7           Q     Did any jail staff member, to the best  
8     of your memory, ever say, it's -- it's obvious  
9     to me this man needs -- needs to go to -- to the  
10    hospital?

11          A     To the best of my recollection, no, sir.

12          Q     Okay. Did any jail staff member ever  
13    express to you any additional concern regarding  
14    Mr. Buchanan other than what we've discussed  
15    here today?

16          A     Not to my recollection, no, sir.

17                   MR. MILLER: I'll pass the witness.

18                   MR. YOUNG: Okay. Rose, we're  
19    almost out of here.

20                   THE WITNESS: Okay.

21                   MR. YOUNG: I suppose those are  
22    famous last words but...

23                               CROSS-EXAMINATION

24    BY MR. YOUNG:

25          Q     Just to be crystal clear, part of your



1 MR. SMOLEN: Objection, speculation.

2 THE WITNESS: It would be different.

3 It would be unusual.

4 Q (By Mr. Young) Let's take a look at  
5 Plaintiff's Exhibit 9. There's been a lot of  
6 discussion about documentation and progress  
7 notes. From that document right there, it looks  
8 to me --

9 A Excuse me.

10 Q -- like at a minimum, you saw and spoke  
11 to Mr. Buchanan; would you agree with that?

12 A Yes.

13 Q And the absence of documentation of a  
14 progress note does not mean that there was no  
15 assessment done; would you agree with that?

16 MR. SMOLEN: Objection to the form.

17 THE WITNESS: Yes.

18 MR. SMOLEN: Misstates the  
19 testimony.

20 Q (By Mr. Young) I think you said you've  
21 been a nurse since 1983?

22 A Yes, sir.

23 Q There's been a lot of talk today about  
24 protocols, standing orders, procedures. Would I  
25 be correct in say -- if I said that those words

1 Q And you would have if that's what you  
2 thought the situation called for, right?

3 MR. SMOLEN: Objection, speculation.

4 THE WITNESS: Yes, I would.

5 Q (By Mr. Young) To your memory, did you  
6 ever ignore Mr. Buchanan's complaints?

7 MR. SMOLEN: Objection to the form.

8 THE WITNESS: No, sir.

9 Q (By Mr. Young) To your memory, did you  
10 ever intentionally delay him getting medical  
11 care?

12 MR. SMOLEN: Objection to the form.

13 THE WITNESS: No, sir.

14 Q (By Mr. Young) So was there ever any  
15 serious medical condition that you just ignored  
16 that you weren't going to deal with that day?

17 A No, sir.

18 MR. SMOLEN: Objection to the form.

19 MR. YOUNG: That's all I've got.

20 MR. SMOLEN: Okay. I've got a  
21 couple of quick questions.

22 REDIRECT EXAMINATION

23 BY MR. SMOLEN:

24 Q Ma'am, of those factors that you  
25 identified on November the 14th that led you to

1 believe that it was an urgent situation, tell  
2 the jury what those were.

3 MR. YOUNG: Do you want me to get  
4 the note back out?

5 THE WITNESS: Uh-huh. I reported  
6 elevated vital signs.

7 Q (By Mr. Smolen) Is that one of the  
8 factors?

9 A Yes. Decreased oxygen intake on room  
10 air.

11 Q Was that a significant factor that led  
12 you to believe that it was an urgent situation?

13 A Yes.

14 Q Okay. What other vital signs led you to  
15 believe it was an urgent situation?

16 A Elevated heart rate and the degree of  
17 pain the patient was in.

18 Q Okay. Had you taken Mr. Buchanan's  
19 vitals on the 11th and he had the same elevated  
20 heart rate that he presented with on the 14th,  
21 would you have called Dr. Cooper?

22 MR. YOUNG: Object to the form.

23 MR. MILLER: Same objection.

24 THE WITNESS: Elevated heart rates,  
25 no.